

IN THE SUPREME COURT OF THE STATE OF HAWAII

In the Matter of the Amendment
of the
Rules of the Small Claims Division of the District Courts

ORDER AMENDING THE RULES
OF THE SMALL CLAIMS DIVISION OF THE DISTRICT COURTS
(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

IT IS HEREBY ORDERED that Rules 3(a), 6(a), 10(a) and 13 of the Rules of the Small Claims Division of the District Courts are amended as follows, effective January 1, 2004 (bracketed material is deleted, new material is underlined):

1. Small Claims Rule 3(a) is amended as follows:

RULE 3. NOTICE AND SERVICE.

(a) Notice. Upon filing of a statement of claim, the clerk shall forthwith sign and issue a notice, which shall contain a notification to the defendant that [if he fails] upon failure to attend at the time and place designated in the notice, judgment by default will be rendered [against him].

2. Small Claims Rule 6(a) is amended as follows:

RULE 6. GENERAL DENIAL; COUNTERCLAIM.

(a) General Denial. A denial by the defendant of the statement of claim [made against him] shall be deemed to render available to the defendant any other matter constituting an avoidance, affirmative defense, or set-off.

3. Small Claims Rule 10(a) is amended as follows:

RULE 10. DEFAULT; WANT OF PROSECUTION.

(a) Default. Judgment by default may be rendered on a verified claim without further proof upon failure of defendant to appear, if the claim is for a liquidated amount. If the amount is unliquidated, plaintiff must present proof of [his] the claim.

A default judgment also may be entered on an admitted claim, upon the lapse of such time as the court may allow for the payment of the claim.

4. Small Claims Rule 13 is amended as follows:

RULE 13. ENFORCEMENT OF JUDGMENT.

Examination of the judgment debtor, garnishee process, execution, and all other remedies available under the ordinary practice and procedure in the regular division of the district courts are available in the small claims division when the time for obtaining relief from the judgment has expired. However, a judgment creditor who [himself] presents to the employer of the judgment debtor papers requiring the employer to either file a disclosure or withhold and pay over portions of the wages of the judgment debtor shall, in addition to meeting the statutory requirements, (1) file with the court copies of the papers if not already on file and deposit the statutory fee for a garnishee's disclosure; and (2) furnish to the employer directions as to the amount to be withheld from the judgment debtor's wages per week or month, in a form approved by the court.

DATED: Honolulu, Hawai'i, December 10, 2003.